

REFERENCE TITLE: **unborn children; methamphetamine addicted mothers**

State of Arizona
Senate
Forty-eighth Legislature
Second Regular Session
2008

SB 1500

Introduced by
Senators Gorman, Blendu, Harper; Representative Yarbrough: Senators
Aguirre, Burns, Gould, Gray C, Gray L, Verschoor; Representatives
Anderson, Biggs, Kavanagh, Nichols

AN ACT

**AMENDING TITLE 8, CHAPTER 10, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 8;
AMENDING SECTION 13-3623, ARIZONA REVISED STATUTES; RELATING TO UNBORN CHILD
PROTECTION.**

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 8, chapter 10, Arizona Revised Statutes, is amended
3 by adding article 8, to read:

4 ARTICLE 8. UNBORN CHILD PROTECTION

5 8-901. Methamphetamine use by expectant mother: protection of
6 unborn child: orders to cooperate: orders for
7 emergency custody; detention; petitions; hearings

8 A. IF A CHILD PROTECTIVE SERVICES WORKER KNOWS OR HAS REASONABLE
9 GROUNDS TO BELIEVE THAT AN EXPECTANT MOTHER IS USING METHAMPHETAMINE AND THE
10 EXPECTANT MOTHER FAILS OR REFUSES TO COMPLY WITH ANY VOLUNTARY MEDICAL
11 EXAMINATION, MONITORING AND TREATMENT, THE WORKER SHALL PETITION THE SUPERIOR
12 COURT IN THE COUNTY IN WHICH THE EXPECTANT MOTHER RESIDES FOR AN ORDER
13 REQUIRING THE EXPECTANT MOTHER TO COOPERATE WITH ALL INTERVENTION EFFORTS TO
14 PREVENT HARM TO HER UNBORN CHILD. THE ORDER TO COOPERATE SHALL INCLUDE A
15 STATEMENT THAT, UNLESS THE EXPECTANT MOTHER COMPLIES WITH THE ACTIONS
16 REQUIRED IN THE ORDER, THE WORKER MAY PETITION THE SUPERIOR COURT FOR AN
17 ORDER REQUIRING THE MOTHER TO BE TAKEN INTO EMERGENCY CUSTODY AND TO UNDERGO
18 COMPULSORY EXAMINATION, MONITORING AND TREATMENT. IF THE EXPECTANT MOTHER IS
19 A MINOR OR AN INCAPACITATED PERSON, THE WORKER SHALL USE REASONABLE EFFORTS
20 TO LOCATE, CONTACT AND CONFER WITH THE EXPECTANT MOTHER'S PARENT OR GUARDIAN.

21 B. A SHERIFF, LAW ENFORCEMENT OFFICER OR OTHER PERSON WHO IS
22 AUTHORIZED TO SERVE NOTICE SHALL SERVE AN ORDER ISSUED PURSUANT TO THIS
23 SECTION ON THE EXPECTANT MOTHER OR, IF THE EXPECTANT MOTHER IS A MINOR OR AN
24 INCAPACITATED PERSON, ON HER PARENT OR GUARDIAN. IF PERSONAL SERVICE CANNOT
25 BE PERFORMED DESPITE THE EXERCISE OF DUE DILIGENCE, THE ORDER MAY BE
26 DELIVERED BY CERTIFIED MAIL. THE CHILD PROTECTIVE SERVICE WORKER SHALL
27 MAINTAIN A COPY OF THE AFFIDAVIT OF SERVICE IN THE CASE FILE.

28 C. IF THE EXPECTANT MOTHER REFUSES TO COMPLY WITH AN ORDER ISSUED
29 PURSUANT TO SUBSECTION A OR IF THE CHILD PROTECTIVE SERVICES WORKER
30 REASONABLY BELIEVES THAT THE EXPECTANT MOTHER HAS PREVIOUSLY FAILED OR
31 REFUSED TO COMPLY WITH AN APPROPRIATE PRESCRIBED COURSE OF TREATMENT OR
32 MONITORING AND BELIEVES THAT EMERGENCY CUSTODY IS NECESSARY TO PROTECT HER
33 UNBORN CHILD, THE WORKER MAY PETITION THE COURT FOR AN EMERGENCY CUSTODY
34 ORDER DIRECTING A SHERIFF OR LAW ENFORCEMENT OFFICER TO TAKE THE EXPECTANT
35 MOTHER INTO CUSTODY AND TO TRANSPORT THE EXPECTANT MOTHER TO AN INSTITUTION
36 OR FACILITY SPECIFIED IN THE ORDER. THE EMERGENCY CUSTODY ORDER MAY BE AN
37 ORAL ORDER FOLLOWED BY THE ISSUANCE OF A WRITTEN ORDER BY THE END OF THE NEXT
38 BUSINESS DAY. THE RECEIVING INSTITUTION SHALL PROVIDE SUITABLE HOUSING AND
39 CARE OF THE EXPECTANT MOTHER.

40 D. AT THE TIME THE EXPECTANT MOTHER IS TAKEN INTO EMERGENCY CUSTODY
41 PURSUANT TO SUBSECTION C, THE CHILD PROTECTIVE SERVICES WORKER PROMPTLY SHALL
42 NOTIFY THE EXPECTANT MOTHER'S HUSBAND, PHYSICIAN, PARENT OR GUARDIAN OR AN
43 ADULT MEMBER OF THE EXPECTANT MOTHER'S FAMILY OF THE DETENTION AND TREATMENT,
44 INCLUDING THE LOCATION OF THE DETENTION AND TREATMENT, THE TERMS OF CUSTODY
45 AND THE AUTHORITY THAT ORDERED THE EXPECTANT MOTHER'S DETENTION AND

1 TREATMENT. THE WORKER SHALL INFORM THE EXPECTANT MOTHER OR, IF THE EXPECTANT
2 MOTHER IS A MINOR OR AN INCAPACITATED PERSON, THE EXPECTANT MOTHER'S PARENT
3 OR GUARDIAN OF THE EXPECTANT MOTHER'S RIGHT TO CONSULT WITH AN ATTORNEY AND
4 THE RIGHT TO HAVE AN ATTORNEY APPOINTED BY THE COURT IF THE EXPECTANT MOTHER
5 CANNOT AFFORD AN ATTORNEY. THE WORKER SHALL ALSO INFORM THE EXPECTANT MOTHER
6 THAT THE COURT SHALL APPOINT AN ATTORNEY TO CONSULT WITH AND TO REPRESENT THE
7 EXPECTANT MOTHER IF SHE CANNOT AFFORD AN ATTORNEY.

8 E. A PETITION FOR EMERGENCY CUSTODY SHALL INCLUDE:

9 1. THE EXPECTANT MOTHER'S NAME, ADDRESS, DATE OF BIRTH AND PHYSICAL
10 LOCATION OR LAST KNOWN ADDRESS. THE PETITIONER SHALL REFER TO THE EXPECTANT
11 MOTHER BY A PSEUDONYM IF SPECIFICALLY REQUESTED BY THE EXPECTANT MOTHER OR IF
12 THE EXPECTANT MOTHER IS A MINOR.

13 2. A STATEMENT THAT CONTAINS THE GROUNDS AND UNDERLYING FACTS
14 DEMONSTRATING THAT THE EXPECTANT MOTHER IS USING METHAMPHETAMINE.

15 3. A STATEMENT THAT THE EXPECTANT MOTHER HAS FAILED TO COMPLY WITH A
16 VOLUNTARY TREATMENT PLAN OR AN ORDER TO COOPERATE OR HAS A HISTORY OF
17 NONCOMPLIANCE WITH AN APPROPRIATE PRESCRIBED COURSE OF TREATMENT OR
18 INTERVENTIONS.

19 4. THE LEAST RESTRICTIVE ALTERNATIVES TO COURT ORDERED EXAMINATION,
20 MONITORING OR TREATMENT THAT ARE APPROPRIATE OR AVAILABLE.

21 5. A STATEMENT THAT IDENTIFIES THE EXPECTANT MOTHER AS A MINOR OR AN
22 INCAPACITATED PERSON, IF APPLICABLE, AND ANY FACTS THAT COULD ASSIST THE
23 COURT IN DETERMINING WHETHER TO APPOINT A GUARDIAN OR CONSERVATOR.

24 F. THE PETITION FOR EMERGENCY CUSTODY SHALL BE ACCOMPANIED BY THE
25 AFFIDAVIT OR AFFIDAVITS OF THE CHILD PROTECTIVE SERVICES WORKER. THE
26 AFFIDAVITS SHALL DETAIL THE EVIDENCE THAT INDICATES THAT THE PERSON IS
27 PREGNANT. THE PETITION SHALL INCLUDE A SUMMARY OF THE FACTS THAT SUPPORT THE
28 ALLEGATIONS OF THE PETITION.

29 G. THE PETITION FOR EMERGENCY CUSTODY SHALL REQUEST THAT THE COURT
30 ISSUE AN IMMEDIATE ORDER AUTHORIZING THE COMPULSORY DETENTION AND TREATMENT
31 AND THE CONTINUED DETENTION AND TREATMENT OF THE EXPECTANT MOTHER IN A
32 DESIGNATED FACILITY FOR SUPERVISED MONITORING AND TREATMENT PENDING A
33 DETENTION HEARING AS PRESCRIBED BY SUBSECTION L.

34 H. BEFORE THE SUPERIOR COURT HAS AN OPPORTUNITY TO RULE ON THE
35 PETITION'S MERITS, THE COURT MAY ORDER THE IMMEDIATE OR CONTINUED DETENTION
36 OF THE EXPECTANT MOTHER IN AN APPROPRIATE INSTITUTION IF THE COURT DETERMINES
37 THAT THERE IS REASONABLE CAUSE TO BELIEVE THAT THE EXPECTANT MOTHER IS LIKELY
38 TO BE A SUBSTANTIAL DANGER TO HER UNBORN CHILD.

39 I. IF THE COURT ORDERS THE EXPECTANT MOTHER TO BE IMMEDIATELY
40 DETAINED, THE COURT SHALL ISSUE ORDERS NECESSARY TO PROVIDE FOR THE
41 APPREHENSION, TRANSPORTATION AND DETENTION OF THE EXPECTANT MOTHER PENDING
42 THE OUTCOME OF THE DETENTION HEARING AND SHALL PROVIDE NOTICE OF DETENTION TO
43 THE EXPECTANT MOTHER'S HUSBAND OR, IF THE EXPECTANT MOTHER IS A MINOR OR AN
44 INCAPACITATED PERSON, THE EXPECTANT MOTHER'S PARENT OR GUARDIAN, OR IF NONE,

1 THE NEXT OF KIN. THE COURT SHALL APPOINT AN ATTORNEY FOR THE EXPECTANT
2 MOTHER IF ONE HAS NOT BEEN APPOINTED.

3 J. IF AFTER REVIEWING THE PETITION FOR EMERGENCY CUSTODY AND
4 SUPPORTING DOCUMENTS AND OTHER EVIDENCE THE COURT DETERMINES THAT THE
5 PETITION AND SUPPORTING DOCUMENTATION AND EVIDENCE SUBMITTED TO THE COURT DO
6 NOT SUPPORT A FINDING THAT THE PERSON IS AN EXPECTANT MOTHER OR IS A
7 SUBSTANTIAL DANGER TO HER UNBORN CHILD, THE COURT SHALL ISSUE A WRITTEN ORDER
8 TO RELEASE THE EXPECTANT MOTHER AS SOON AS REASONABLY POSSIBLE.

9 K. IF AFTER A PETITION FOR EMERGENCY CUSTODY HAS BEEN FILED AND BEFORE
10 THE HEARING THE PETITIONER OR THE MEDICAL DIRECTOR OF THE RECEIVING
11 INSTITUTION DETERMINES THAT THE PERSON IS NOT AN EXPECTANT MOTHER, THE
12 PETITIONER SHALL WITHDRAW THE PETITION AND THE PETITIONER OR THE MEDICAL
13 DIRECTOR OF THE RECEIVING INSTITUTION SHALL DISCHARGE THE PERSON AS SOON AS
14 REASONABLY POSSIBLE.

15 L. A DETENTION HEARING SHALL BE HELD WITHIN FIFTEEN DAYS AFTER THE
16 PETITION FOR EMERGENCY CUSTODY IS FILED WITH THE CLERK OF THE SUPERIOR COURT
17 UNLESS:

18 1. THE COURT DETERMINES FOR GOOD CAUSE SHOWN THAT A CONTINUANCE OF THE
19 DETENTION HEARING IS NECESSARY. FOR THE PURPOSES OF THIS PARAGRAPH, "GOOD
20 CAUSE" INCLUDES THE UNAVAILABILITY OF NECESSARY WITNESSES OR THAT ADDITIONAL
21 TIME IS NECESSARY TO RECEIVE AND INTERPRET LABORATORY TEST RESULTS.

22 2. THE EXPECTANT MOTHER OR, IF THE EXPECTANT MOTHER IS A MINOR OR AN
23 INCAPACITATED PERSON, THE EXPECTANT MOTHER'S PARENT OR GUARDIAN, ON
24 CONSULTATION WITH AN ATTORNEY, DETERMINES THAT IT WOULD BE IN THE EXPECTANT
25 MOTHER'S BEST INTEREST TO REQUEST A CONTINUANCE.

26 M. A CONTINUANCE GRANTED TO ANY PARTY BY THE COURT PURSUANT TO
27 SUBSECTION L SHALL NOT EXCEED THIRTY DAYS UNLESS THE PARTIES AGREE TO AN
28 ADDITIONAL CONTINUANCE.

29 N. THE PURPOSE OF A DETENTION HEARING IS TO DETERMINE IF THE EXPECTANT
30 MOTHER IS USING METHAMPHETAMINE. THE BURDEN OF PROOF IS ON THE PETITIONER TO
31 PROVE BY CLEAR AND CONVINCING EVIDENCE THAT DETENTION IS NECESSARY BECAUSE
32 THE PERSON IS AN EXPECTANT MOTHER AND IS A SUBSTANTIAL DANGER TO HER UNBORN
33 CHILD.

34 O. WITHIN FIVE DAYS AFTER THE FILING OF A PETITION FOR EMERGENCY
35 CUSTODY, THE PETITIONER SHALL SERVE ON THE EXPECTANT MOTHER OR, IF THE
36 EXPECTANT MOTHER IS A MINOR OR AN INCAPACITATED PERSON, THE EXPECTANT
37 MOTHER'S PARENT OR GUARDIAN A COPY OF THE PETITION AND AFFIDAVITS IN SUPPORT
38 OF IT AND THE NOTICE OF THE HEARING. THE NOTICE SHALL INFORM THE EXPECTANT
39 MOTHER OF THE PURPOSE OF THE HEARING AND THE RIGHT TO AN ATTORNEY. IF THE
40 EXPECTANT MOTHER HAS NOT EMPLOYED AN ATTORNEY, THE COURT SHALL APPOINT AN
41 ATTORNEY AT LEAST SEVEN DAYS BEFORE THE HEARING. THE NOTICE SHALL FIX THE
42 DATE, TIME AND PLACE FOR THE HEARING. THE NOTICE REQUIREMENTS OF THIS
43 SUBSECTION CANNOT BE WAIVED.

44 P. AT LEAST FIVE DAYS BEFORE THE COURT CONDUCTS THE HEARING ON THE
45 PETITION OR WITHIN A REASONABLE TIME AFTER THE APPOINTMENT OF A COURT

1 APPOINTED ATTORNEY, THE PETITIONER SHALL MAKE COPIES OF THE PETITION,
2 AFFIDAVITS IN SUPPORT OF IT, THE NOTICE OF THE HEARING, THE INVESTIGATION
3 REPORTS, THE EXPECTANT MOTHER'S MEDICAL RECORDS AND OTHER EXHIBITS AVAILABLE
4 TO THE EXPECTANT MOTHER OR, IF THE EXPECTANT MOTHER IS A MINOR OR AN
5 INCAPACITATED PERSON, THE EXPECTANT MOTHER'S PARENT OR GUARDIAN OR THAT
6 PERSON'S ATTORNEY FOR EXAMINATION AND REPRODUCTION.

7 Q. AN EXPECTANT MOTHER HAS THE RIGHT TO HAVE AN EVALUATION PERFORMED
8 BY AN INDEPENDENT PHYSICIAN. THIS EVALUATION SHALL INCLUDE A PHYSICAL
9 EXAMINATION AND LABORATORY ANALYSIS. IF THE EXPECTANT MOTHER IS UNABLE TO
10 AFFORD AN EXAMINATION THE COURT SHALL APPOINT AN INDEPENDENT EVALUATOR
11 ACCEPTABLE TO THE EXPECTANT MOTHER FROM A LIST OF LICENSED PHYSICIANS WHO ARE
12 WILLING TO ACCEPT COURT APPOINTED EVALUATIONS. THE EXPECTANT MOTHER MAY
13 REQUIRE THE INDEPENDENT PHYSICIAN WHO PERFORMED THE EVALUATION TO APPEAR AS A
14 WITNESS AT A HEARING CONDUCTED PURSUANT TO THIS SECTION.

15 R. THE EXPECTANT MOTHER OR, IF THE EXPECTANT MOTHER IS A MINOR OR AN
16 INCAPACITATED PERSON, THE EXPECTANT MOTHER'S PARENT OR GUARDIAN AND THAT
17 PERSON'S ATTORNEY HAVE THE RIGHT TO BE PRESENT AT ALL HEARINGS. THE
18 EXPECTANT MOTHER OR A MINOR EXPECTANT MOTHER'S PARENT OR GUARDIAN MAY WAIVE
19 ANY APPEARANCE BEFORE THE COURT.

20 S. IF THE EXPECTANT MOTHER IS UNABLE OR UNWILLING TO BE PRESENT AT THE
21 HEARING OR THE HEARING CANNOT BE REASONABLY CONDUCTED WHERE THE EXPECTANT
22 MOTHER IS BEING TREATED OR CONFINED OR CANNOT BE REASONABLY CONDUCTED IN THE
23 EXPECTANT MOTHER'S PRESENCE, THE COURT SHALL ENTER A FINDING AND MAY PROCEED
24 WITH THE HEARING ON THE MERITS OF THE PETITION.

25 T. PARTIES TO THE PROCEEDINGS MAY PRESENT EVIDENCE AND SUBPOENA AND
26 CROSS-EXAMINE WITNESSES.

27 U. PERSONS WHO ARE APPOINTED TO CONDUCT AN EXAMINATION AND EVALUATION
28 OF THE EXPECTANT MOTHER SHALL MAKE THEIR REPORTS IN WRITING TO THE COURT.
29 THE REPORTS SHALL INCLUDE A RECOMMENDATION AS TO THE LEAST RESTRICTIVE
30 ALTERNATIVE MEASURES AVAILABLE TO THE COURT.

31 V. A VERBATIM RECORD OF ALL PROCEEDINGS UNDER THIS SECTION SHALL BE
32 MADE BY STENOGRAPHIC OR ELECTRONIC MEANS. THE STENOGRAPHIC NOTES OR
33 ELECTRONIC TAPE SHALL BE RETAINED AS PRESCRIBED BY LAW.

34 W. THE COURT HEARING IS NOT OPEN TO THE PUBLIC AND ALL RECORDS,
35 NOTICES, EXHIBITS AND OTHER EVIDENCE ARE CONFIDENTIAL AND SHALL NOT BE
36 RELEASED TO THE PUBLIC. THE COURT MAY ORDER ANY PORTION RELEASED OR A PUBLIC
37 HEARING TO BE HELD ON A REQUEST FROM THE EXPECTANT MOTHER OR, IF THE
38 EXPECTANT MOTHER IS A MINOR OR AN INCAPACITATED PERSON, THE EXPECTANT
39 MOTHER'S PARENT OR GUARDIAN OR THE EXPECTANT MOTHER'S ATTORNEY. THE COURT'S
40 RECORDS AND EXHIBITS ARE AVAILABLE TO THE PETITIONER AND THE EXPECTANT MOTHER
41 OR A LEGAL REPRESENTATIVE OF ANY OF THESE PERSONS.

42 X. AN EXPECTANT MOTHER WHO IS ORDERED BY THE COURT TO UNDERGO
43 EXAMINATION, MONITORING, TREATMENT OR DETENTION OR, IF THE EXPECTANT MOTHER
44 IS A MINOR OR AN INCAPACITATED PERSON, THE EXPECTANT MOTHER'S PARENT OR
45 GUARDIAN, MAY REQUEST A CERTIFIED TRANSCRIPT OF THE HEARING. TO OBTAIN A

COPY THE PERSON SHALL PAY FOR THE TRANSCRIPT OR SHALL FILE AN AFFIDAVIT THAT THE EXPECTANT MOTHER CANNOT AFFORD TO PAY FOR A TRANSCRIPT. IF THE AFFIDAVIT IS FOUND TO BE TRUE BY THE COURT, THE COURT SHALL CHARGE THE EXPENSE OF THE TRANSCRIPT TO THE COUNTY IN WHICH THE PROCEEDINGS WERE HELD. IF AN INTERGOVERNMENTAL AGREEMENT BY THE COUNTIES HAS REQUIRED AN EVALUATION IN A COUNTY OTHER THAN THAT OF THE EXPECTANT MOTHER'S RESIDENCE, THIS EXPENSE MAY BE CHARGED TO THE COUNTY OF THE EXPECTANT MOTHER'S RESIDENCE OR IN WHICH THE EXPECTANT MOTHER WAS FOUND BEFORE THE EVALUATION.

Sec. 2. Section 13-3623, Arizona Revised Statutes, is amended to read:

13-3623. Child or vulnerable adult abuse; emotional abuse; classification; exceptions; definitions

A. Under circumstances likely to produce death or serious physical injury, any person who causes a child or vulnerable adult to suffer physical injury or, having the care or custody of a child or vulnerable adult, who causes or permits the person or health of the child or vulnerable adult to be injured or who causes or permits a child or vulnerable adult to be placed in a situation where the person or health of the child or vulnerable adult is endangered is guilty of an offense as follows:

1. If done intentionally or knowingly, the offense is a class 2 felony and if the victim is under fifteen years of age it is punishable pursuant to section 13-604.01.

2. If done recklessly, the offense is a class 3 felony.

3. If done with criminal negligence, the offense is a class 4 felony.

B. Under circumstances other than those likely to produce death or serious physical injury to a child or vulnerable adult, any person who causes a child or vulnerable adult to suffer physical injury or abuse or, having the care or custody of a child or vulnerable adult, who causes or permits the person or health of the child or vulnerable adult to be injured or who causes or permits a child or vulnerable adult to be placed in a situation where the person or health of the child or vulnerable adult is endangered is guilty of an offense as follows:

1. If done intentionally or knowingly, the offense is a class 4 felony.

2. If done recklessly, the offense is a class 5 felony.

3. If done with criminal negligence, the offense is a class 6 felony.

C. For the purposes of subsections A and B of this section, the terms endangered and abuse include but are not limited to circumstances in which a child or vulnerable adult is permitted to enter or remain in any structure or vehicle in which volatile, toxic or flammable chemicals are found or equipment is possessed by any person for the purpose of manufacturing a dangerous drug in violation of section 13-3407, subsection A, paragraphs 3 or 4. Notwithstanding any other provision of this section, a violation committed under the circumstances described in this subsection does not require that a person have care or custody of the child or vulnerable adult.

1 D. A person who intentionally or knowingly engages in emotional abuse
2 of a vulnerable adult who is a patient or resident in any setting in which
3 health care, health-related services or assistance with one or more of the
4 activities of daily living is provided or, having the care or custody of a
5 vulnerable adult, who intentionally or knowingly subjects or permits the
6 vulnerable adult to be subjected to emotional abuse is guilty of a class 6
7 felony.

8 E. This section does not apply to:

9 1. A health care provider as defined in section 36-3201 who permits a
10 patient to die or the patient's condition to deteriorate by not providing
11 health care if that patient refuses that care directly or indirectly through
12 a health care directive as defined in section 36-3201, through a surrogate
13 pursuant to section 36-3231 or through a court appointed guardian as provided
14 for in title 14, chapter 5, article 3.

15 2. A vulnerable adult who is being furnished spiritual treatment
16 through prayer alone and who would not otherwise be considered to be abused,
17 neglected or endangered if medical treatment were being furnished.

18 F. For the purposes of this section:

19 1. "Abuse", when used in reference to a child, means abuse as defined
20 in section 8-201, except for those acts in the definition that are declared
21 unlawful by another statute of this title and, when used in reference to a
22 vulnerable adult, means:

23 (a) Intentional infliction of physical harm.

24 (b) Injury caused by criminally negligent acts or omissions.

25 (c) Unlawful imprisonment, as described in section 13-1303.

26 (d) Sexual abuse or sexual assault.

27 2. "Child" means an individual who is under eighteen years of age AND
28 INCLUDES AN UNBORN CHILD.

29 3. "Emotional abuse" means a pattern of ridiculing or demeaning a
30 vulnerable adult, making derogatory remarks to a vulnerable adult, verbally
31 harassing a vulnerable adult or threatening to inflict physical or emotional
32 harm on a vulnerable adult.

33 4. "Physical injury" means the impairment of physical condition and
34 includes any skin bruising, pressure sores, bleeding, failure to thrive,
35 malnutrition, dehydration, burns, fracture of any bone, subdural hematoma,
36 soft tissue swelling, injury to any internal organ or any physical condition
37 that imperils health or welfare.

38 5. "Serious physical injury" means physical injury that creates a
39 reasonable risk of death or that causes serious or permanent disfigurement,
40 serious impairment of health or loss or protracted impairment of the function
41 of any bodily organ or limb.

42 6. "Vulnerable adult" means an individual who is eighteen years of age
43 or older and who is unable to protect himself from abuse, neglect or
44 exploitation by others because of a mental or physical impairment.